

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
SECOND SPECIAL SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1917

S.P. 691

In Senate, October 16, 1987

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JOY J. O'BRIEN, Secretary of the Senate  
Presented by Senator COLLINS of Aroostook.  
Cosponsored by Representative WILLEY of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Reform the Process by which  
2 Insurance Rates are Established under  
3 the Maine Workers' Compensation Act.  
4

5 Emergency preamble. Whereas, Acts of the Legisla-  
6 ture do not become effective until 90 days after ad-  
7 journment unless enacted as emergencies; and

8 Whereas, there is a statutory requirement that  
9 all employers in the State provide workers' compensa-  
10 tion coverage; and

11 Whereas, most, if not all, of the insurance car-  
12 riers writing such workers' compensation insurance in  
13 the State are withdrawing from the business; and

1           Whereas, comprehensive legislative reform is  
2 urgently needed as it is the only possibility for  
3 saving the private insurance market for workers' com-  
4 pensation, without which employers cannot operate;  
5 and

6           Whereas, in the judgment of the Legislature,  
7 these facts create an emergency within the meaning of  
8 the Constitution of Maine and require the following  
9 legislation as immediately necessary for the preser-  
10 vation of the public peace, health and safety; now,  
11 therefore,

12 Be it enacted by the People of the State of Maine as  
13 follows:

14           Sec. 1. 5 MRSA §12004, sub-§6, ¶A, sub-¶(3) is  
15 enacted to read:

16	<u>(3) Workers' Compensation</u>	<u>Legislative</u>	<u>24-A MRSA</u>
17	<u>Rating Board</u>	<u>Per Diem</u>	<u>§2361</u>

18           Sec. 2. 10 MRSA §8001, as repealed and replaced  
19 by PL 1987, c. 395, Pt. A, §34 and c. 488, §2, is re-  
20 pealed and the following enacted in its place:

21 §8001. Department; organization

22           There is created and established the Department  
23 of Professional and Financial Regulation, in this  
24 chapter referred to as the "department," to regulate  
25 financial institutions, insurance companies, commer-  
26 cial sports and grantors of consumer credit and to  
27 license and regulate professions and occupations. The  
28 department shall be composed of the following bu-  
29 reaus, boards and commissions:

30           Banking, Bureau of;

31           Consumer Credit Protection, Bureau of;

32           Insurance, Bureau of;

33           Athletic Commission, Maine;

34           Pilotage Commission, Maine State;

- 1           Real Estate Commission;
- 2           Arborist Examining Board;
- 3           Auctioneers, Board of Licensing of;
- 4           Barbers, State Board of;
- 5           Commercial Driver Education, Board of;
- 6           Dietetic Practice, Board of Registration of;
- 7           Electricians' Examining Board;
- 8           Foresters, State Board of Licensure for Profes-
- 9           sional;
- 10          Funeral Service, State Board of;
- 11          Geologists and Soil Scientists, State Board of
- 12          Certification for;
- 13          Hearing Aid Dealers and Fitters, Board of;
- 14          Manufactured Housing Board;
- 15          Nursing Home Administrators Licensing Board;
- 16          Occupational Therapy Practice, Board of;
- 17          Oil and Solid Fuel Board;
- 18          Physical Therapy, Board of Examiners in;
- 19          Plumbers' Examining Board;
- 20          Psychologists, State Board of Examiners of;
- 21          Radiologic Technology, Board of Examiners;
- 22          Respiratory Care Practitioners, Board of;
- 23          Social Worker Licensure, State Board of;
- 24          Speech Pathology and Audiology, Board of Examin-
- 25          ers on;

1           Substance Abuse Counselors, State Board of;

2           Veterinary Medicine, State Board of;

3           Acupuncture Licensing Board; and

4           Workers' Compensation Rating Board.

5           Sec. 3. 24-A MRSA §2302, sub-§3, as repealed and  
6 replaced by PL 1985, c. 372, Pt. B, §2, is amended to  
7 read:

8           3. Workers' compensation shall first be subject  
9 to chapter 25, subchapter ~~II~~ II-A, but any other  
10 parts of this ~~chapter and Title 39~~ subchapter not in-  
11 consistent with those sections shall also apply.

12           Sec. 4. 24-A MRSA §2303, sub-§1, ~~¶C~~, as amended  
13 by PL 1985, c. 372, Pt. B, §3, is further amended to  
14 read:

15           C. Due consideration shall be given:

16                   (1) To past and prospective loss experience  
17                   within and outside this State;

18                   (2) To the conflagration and catastrophe  
19                   hazards;

20                   (3) To a reasonable margin for underwriting  
21                   profit and contingencies;

22                   (4) To dividends, savings or unabsorbed  
23                   premium deposits allowed or returned by in-  
24                   surers to their policyholders, members or  
25                   subscribers;

26                   (5) To past and prospective expenses both  
27                   countrywide and those specially applicable  
28                   to this State;

29                   (6) To all other relevant factors within  
30                   and outside this State;

31                   (6-A) In the case of workers' compensation  
32                   rates, consideration shall be given to the  
33                   information required to be filed under ~~Title~~

1 397--section--22-D7--subsections-4-and-5 sec-  
2 tion 2363; and

3 (7) In the case of fire insurance rates,  
4 consideration shall be given to the experi-  
5 ence of the fire insurance business during a  
6 period of not less than the most recent  
7 5-year period for which such experience is  
8 available.

9 Sec. 5. 24-A M RSA c. 25, sub-c. II, as amended,  
10 is repealed.

11 Sec. 6. 24-A M RSA c. 25, sub-c. II-A is enacted  
12 to read:

13 SUBCHAPTER II-A

14 WORKERS' COMPENSATION RATES

15 §2361. Workers' Compensation Rating Board

16 The Workers' Compensation Rating Board, in this  
17 subchapter referred to as the "board," as established  
18 by Title 5, section 12004, subsection 6, and within  
19 the Department of Professional and Financial Regula-  
20 tion, shall administer this subchapter.

21 1. Membership; term. The board shall consist of  
22 the superintendent and 2 members appointed by the  
23 Governor subject to confirmation by the Senate. The  
24 term of the superintendent shall be subject to the  
25 provisions of section 201. The other 2 members of  
26 the board shall each be appointed for a term of 4  
27 years or until a successor has been appointed and  
28 qualified, except that the first 2 members appointed  
29 shall serve for a term of 2 years and a term of 4  
30 years respectively. Any vacancy occurring shall be  
31 filled for the unexpired portion of the term. The  
32 members of the board shall be subject to removal only  
33 as set forth in section 201, subsection 4.

34 2. Powers and duties. The board shall adminis-  
35 ter and enforce this subchapter. In addition to the  
36 authority expressly granted in this subchapter, the  
37 board shall have the same authority as is granted to  
38 the superintendent under chapter 3 and chapter 25,

1 subchapter I, to the extent necessary for the proper  
2 administration of this subchapter.

3 3. Meetings; hearings; chairman; quorum. The  
4 superintendent shall be chairman of the board. The  
5 board shall meet as necessary to conduct its busi-  
6 ness. Two members of the board shall constitute a  
7 quorum for all purposes. The superintendent shall  
8 be responsible for the day-to-day administration of  
9 this subchapter at times when the board is not meet-  
10 ing, consistent with authorities delegated by the  
11 full board. All adjudicatory proceedings shall be  
12 conducted in accordance with the Maine Administrative  
13 Procedure Act, Title 5, chapter 375, subchapter IV.

14 4. Staff. The Bureau of Insurance personnel  
15 shall, subject to direction of the chairman, provide  
16 the support services required by the board in the  
17 discharge of its duties. The chairman, on behalf of  
18 the board, may retain outside consultants as provided  
19 in section 2363, subsection 13.

20 5. Costs; assessments. All costs and expenses  
21 incurred by the board in the discharge of its duties  
22 which are not otherwise assessed under section 2363,  
23 subsection 13, shall be assessed in accordance with  
24 the procedure established by section 237 against in-  
25 surers licensed to write workers' compensation insur-  
26 ance in this State.

27 6. Decisions. All decisions of the board shall  
28 be by majority vote.

29 7. Appeals from board. Unless otherwise pro-  
30 vided, appeals from decisions of the board shall be  
31 governed by the provision of section 236 and by the  
32 Maine Administrative Procedure Act, Title 5, chapter  
33 375, subchapter VII.

34 §2362. Workers' compensation rates

35 Workers' compensation rates and classifications  
36 shall be established by the board subject to this  
37 chapter. Rates determined by the board are maximum  
38 rates. Premium rates less than those approved may be  
39 used if filed with the board within 5 days after com-  
40 mencing use. If the board has reason to believe

1 that the filing produces rates which are inadequate  
2 or unfairly discriminatory, it may disapprove them  
3 under chapter 23 and chapter 25, subchapter I.

4 §2363. Approval of insurance policies and rates

5 The following provisions apply to workers' com-  
6 penensation insurance policies and rates.

7 1. Policies. Every insurance company issuing  
8 workers' compensation insurance policies covering the  
9 payment of compensation and benefits provided for in  
10 this subchapter shall use only policy forms approved  
11 pursuant to section 2412.

12 2. Determination of rates. Every insurer issu-  
13 ing workers' compensation insurance policies shall  
14 file with the board its classification of risks and  
15 premium rates, which may not take effect until the  
16 board has approved them. The board shall apply the  
17 procedures and standards of this section in investi-  
18 gating, reviewing and determining just and reasonable  
19 rates. The board may:

20 A. Require the filing of specific rates for  
21 workers' compensation insurance, including clas-  
22 sification of risks, experience or any other rat-  
23 ing information from insurance companies autho-  
24 rized to transact insurance in this State;

25 B. Make or cause to be made investigations as it  
26 deems necessary to satisfy itself that the rates  
27 to be promulgated are just and reasonable; and

28 C. At any time, after public hearing, withdraw  
29 its approval of a previously approved rate fil-  
30 ing.

31 3. Notice of filing. At least 45 days prior to  
32 any filing for rates under this section, a person  
33 filing shall notify the board in writing of the in-  
34 tenation to file and shall disclose the approximate  
35 amount of a requested increase or decrease and a de-  
36 scription of major rating rule changes to be pro-  
37 posed. Within 10 days of receipt, the board shall  
38 notify the public by publication in a newspaper of  
39 general circulation and notify the Public Advocate  
40 that a rate filing is to be made.



1           4. Contents of filing. A rate filing shall in-  
2 clude:

3           A. For each of the 3 calendar years immediately  
4 preceding the date of the filing including, in  
5 the case of a filing made by a rating organiza-  
6 tion, data for each year from each insurer which  
7 had 1% or more of the total written premium for  
8 that year:

9                   (1) The actual gross earned premium alloca-  
10 ble to the coverage of risks in this State;

11                   (2) For unearned premium, earned premium,  
12 loss and loss expense reserve funds and cap-  
13 ital and surplus subject to investment, al-  
14 locable to the coverage of risks in this  
15 State:

16                           (a) The amount of investments of each  
17 type of fund;

18                           (b) The types of investments of all  
19 these funds; and

20                           (c) The annual income amounts, before  
21 taxes, generated by the aggregate of  
22 these investments;

23                   (3) The gross rate of return on admitted  
24 assets;

25                   (4) The amount of dividends or the equiva-  
26 lent allowed or returned to policyholders;

27                   (5) The aggregate annual expenses allocable  
28 to the coverage of risks in this State, in-  
29 cluding acquisition and field supervision  
30 expenses, taxes, licenses and fees, other  
31 than federal income tax and general ex-  
32 penditures, each stated separately. Safety en-  
33 gineering expense and loss control services'  
34 expense shall be stated separately under  
35 general expense;

36                   (6) The aggregate annual losses and loss  
37 adjustment expenses allocable to the cover-  
38 age of risks in this State; and

1                   (7) The changes and improvements instituted  
2                   in loss control and employee safety engi-  
3                   neering;

4                   B. For each risk classification:

5                   (1) The rate presently applicable to the  
6                   classification;

7                   (2) The rate proposed for the classifica-  
8                   tion;

9                   (3) Loss experience in this State for each  
10                  of the 3 most recent years available, in-  
11                  cluding, in each classification, payroll,  
12                  number of serious workers' compensation  
13                  cases, number of nonserious cases, the  
14                  losses, including medical expense incurred  
15                  with respect to each type of case, loss ad-  
16                  justment expense and the total of all losses  
17                  and expenses incurred; and

18                  (4) The information required by this para-  
19                  graph shall be presented in tabular form;

20                  C. If data reported is determined by percentage  
21                  factors, rather than actual expense, an explana-  
22                  tion of the basis of the factors used;

23                  D. Statements or exhibits that reasonably sub-  
24                  stantiate assumptions, methodology or calcula-  
25                  tions used in support of the proposed rates or to  
26                  generate the information or data in the filing  
27                  and identification of any those that are known or  
28                  believed to be contrary to established policy of  
29                  the board; and

30                  E. Any other information required to be included  
31                  by the board.

32                  5. Aggregate data. Aggregate expense data, an-  
33                  ual losses, loss adjustment expense data and loss  
34                  experience data required to be reported under subsec-  
35                  tion 4, paragraph A, subparagraphs (5) and (6), and  
36                  paragraph B, subparagraph (3), shall be based on ex-  
37                  penditure and experience data pertaining to this State,  
38                  except as otherwise provided in this subsection. The

1 rate of return on capital and surplus used in estab-  
2 lishing the rates requested, the rate of return on  
3 the investment allocable to the coverage of risks in  
4 this State and the facts, assumptions and calcula-  
5 tions employed to derive each rate of return shall  
6 also be reported in the aggregate.

7 A. To the extent that the State expense and ex-  
8 perience data is not fully credible, the board  
9 may allow reporting of and consider data from  
10 outside this State.

11 B. Aggregate loss experience data shall:

12 (1) Include and be categorized as required  
13 in subsection 4, paragraph B, subparagraph  
14 (3); and

15 (2) Be presented in tabular form. The ta-  
16 bles shall indicate, with respect to each  
17 classification, the relative weight given to  
18 experience in this State and to national ex-  
19 perience in determining the applicable rate.

20 6. Additional information. The board may re-  
21 quire, at any time, any additional information it  
22 deems necessary and may reasonably extend the time  
23 periods established in subsection 9 to allow time to  
24 provide that information.

25 A. Within 30 days of receipt of a filing, the  
26 board shall determine if the filing is complete.

27 (1) If the filing is incomplete, the board  
28 shall notify the applicant and all parties  
29 in writing of those deficiencies.

30 (2) An applicant shall complete or amend  
31 the filing within 30 days of that written  
32 notice.

33 (3) An action or inaction by the board un-  
34 der this paragraph does not constitute a  
35 substantive finding that the information in  
36 the filing is sufficient to establish that  
37 any action or relief should be granted or  
38 that any facts have been proven or limit the

1 board's authority to request further infor-  
2 mation or data.

3 B. If the applicant fails to furnish the infor-  
4 mation within the time prescribed, the board may  
5 issue an order dismissing the filing.

6 C. For all purposes, the date of completing the  
7 filing shall be deemed the date on which the last  
8 document that made the filing complete was re-  
9 ceived by the board, except that the board may  
10 treat the day that the incomplete filing was  
11 filed as the filing date if the incompleteness is  
12 found to be immaterial or not to have delayed,  
13 impeded or interfered with the ability of the  
14 board, bureau or any party to respond to, inves-  
15 tigate or process the filing.

16 7. Standard for approval. This subsection ap-  
17 plies to determination of just and reasonable rates  
18 for a filing.

19 A. The board shall establish rates, based on the  
20 filing and sworn testimony, which are, in addi-  
21 tion to any other requirements:

22 (1) Just and reasonable and not excessive,  
23 inadequate or unfairly discriminatory; and

24 (2) Based only on a just and reasonable  
25 profit.

26 B. In establishing just and reasonable rates,  
27 the board shall consider:

28 (1) The reasonableness of any return on  
29 capital and surplus allocable to the cover-  
30 age of risks in this State;

31 (2) The reasonableness of the amounts of  
32 capital and surplus allocable to the cover-  
33 age of risks in this State;

34 (3) The reported investment income earned  
35 or realized from funds generated from busi-  
36 ness in this State;

1                   (4) The reported loss reserves, including  
2                   the methods and the interest rates used in  
3                   determining the present value for reported  
4                   reserves and the use of those reserves in  
5                   the determination of the proposed rates;

6                   (5) The reported annual losses and loss ad-  
7                   justment expenses;

8                   (6) The measures taken to contain costs,  
9                   including loss control, loss adjustment and  
10                   employee safety engineering programs;

11                   (7) The relationship of the aggregate  
12                   amount of operating expenses reported by all  
13                   companies to the annual operating expenses  
14                   reported in the filing and the annual insur-  
15                   ance expense exhibits filed by each company  
16                   with the board; and

17                   (8) The operating and management efficiency  
18                   of the companies.

19                   C. The justness and reasonableness of rates  
20                   shall be determined for the period in which the  
21                   rates are in effect.

22                   D. The filer shall have the burden of proving  
23                   that the rates meet the requirements of this  
24                   chapter and chapter 23.

25                   E. The board may not approve an increase or de-  
26                   crease in rates unless it finds that the informa-  
27                   tion supplied in the filing and sworn testimony  
28                   is accurate and sufficient to meet the require-  
29                   ments of this section.

30                   F. For the introduction of a new rate for a new  
31                   classification or the adjustment of a single rate  
32                   for an existing classification, the requirements  
33                   of paragraph A, subparagraph (1); subsection 2;  
34                   subsection 4, paragraphs B to E; and subsections  
35                   8, 9, 10, 12 and 13 shall apply. The board shall  
36                   establish the new rate at a level which is not  
37                   unfairly discriminatory in relation to the cur-  
38                   rently approved rates for other classifications.

1           8. Public record. A rate filing shall be a public  
2 record and shall be available for public review  
3 and inspection.

4           9. Information for parties and intervenors. A  
5 party or intervenor may make written application to  
6 the board for an order that a filer produce any in-  
7 formation relevant to whether the filing rates meet  
8 the requirements of this Title, except for informa-  
9 tion relating to a particular claim. If the party  
10 filing fails to furnish the information within the  
11 time prescribed by the board, the party or intervenor  
12 making the request may make written application to  
13 the board for an order dismissing the filing. If, af-  
14 ter a hearing, the board determines that the failure  
15 to furnish the information was without good cause, it  
16 shall issue an order for dismissal of the filing.

17           10. Public hearing. The board shall hold a public  
18 hearing as provided in sections 229 and 235 on  
19 each filing. The public hearing shall be conducted no  
20 sooner than 30 days and no later than 60 days of the  
21 date the rate filing is deemed complete by the board,  
22 unless the board extends these limits under subsec-  
23 tion 6. The board shall establish just and reasonable  
24 rates and state its findings in a written order is-  
25 ssued within 90 days from the date the filing is com-  
26 pleted, unless it extends this limit under subsection  
27 6. If the board denies or dismisses a filing, any  
28 further filing shall be deemed to be a new filing,  
29 subject to this public hearing requirement.

30           11. Subsequent filing. A person filing may not  
31 file a rate filing within 180 days of receiving a  
32 rate increase or decrease.

33           12. Procedure; rules. Subject to the applicable  
34 requirements of the Maine Administrative Procedure  
35 Act, Title 5, chapter 375, the board may adopt rules  
36 establishing procedures for the administration of  
37 this section, including, procedures governing submis-  
38 sion of petitions for intervenor status, prefiling of  
39 testimony and exhibits, information requests, subpoe-  
40 nas, prehearing conferences and conduct of hearings.

41           13. Costs. For the purpose of determining wheth-  
42 er a filing meets the requirements of this section,

1 the chairman may employ bureau staff personnel and  
2 outside consultants. The organization or insurer mak-  
3 ing the filing shall be responsible for the reason-  
4 able costs related to the review of workers' compen-  
5 sation rate filings, including conduct of the hear-  
6 ing.

7 §2364. Uniform classification system; experience and  
8 merit rating plans

9 1. Uniform plans. Every workers' compensation  
10 insurer, including self-insurers, shall adhere to a  
11 uniform classification system and uniform experience  
12 rating plan filed with the board by an advisory orga-  
13 nization. An insurer may develop subclassifications  
14 of the uniform classification system on which a rate  
15 may be made provided that:

16 A. A subclassification must be filed with the  
17 board 30 days prior to its use; and

18 B. The board may disapprove a subclassification  
19 if:

20 (1) The insurer fails to demonstrate that  
21 the data produced may be reported consistent  
22 with the uniform statistical plan and clas-  
23 sification system; or

24 (2) The proposed subclassification:

25 (a) Is not reasonably related to the  
26 exposure;

27 (b) Is not adequately defined;

28 (c) Has not been shown to distinguish  
29 among insured based on the potential  
30 for or hazard of loss; or

31 (d) Is likely to be unfairly discrimi-  
32 natory.

33 2. Statistical advisory organization. The board  
34 shall designate an advisory organization to assist it  
35 in gathering, compiling and reporting relevant sta-  
36 tistical information. Every workers' compensation in-

1 surer shall record and report its workers' compensa-  
2 tion experience to the designated advisory organiza-  
3 tion as set forth in the uniform statistical plan.

4 3. Manual rules. The designated advisory organi-  
5 zation shall develop and file manual rules, subject  
6 to the approval of the board, which are reasonably  
7 related to the recording and reporting of data pursu-  
8 ant to the uniform statistical plan, uniform experi-  
9 ence rating plan and uniform classification system.

10 4. Experience and merit rating plans. An experi-  
11 ence or merit rating plan shall contain reasonable  
12 eligibility standards and provide adequate incentives  
13 for loss prevention and for sufficient premium dif-  
14 ferentials to encourage safety. The experience rating  
15 plan shall provide reasonable and equitable limita-  
16 tions on the ability of policyholders to avoid the  
17 impact of past adverse claims experience through  
18 change of ownership, control, management or opera-  
19 tion.

20 A. The uniform experience rating plan shall be  
21 the exclusive means for providing prospective  
22 premium adjustments based upon the past claim ex-  
23 perience of an individual insured.

24 B. Insurers may file rating plans that provide  
25 for retrospective premium adjustments based on an  
26 insured's past experience. In both the voluntary  
27 market and the residual market, retrospective  
28 rating plans shall be voluntary and shall not be  
29 used without the prior consent of the insured.

30 C. If an insured is not eligible for an experi-  
31 ence rating plan, a merit rating plan shall be  
32 applied using the following guidelines.

33 (1) A plan shall provide for the following  
34 minimum credits or maximum debits to be ap-  
35 plied to the otherwise applicable manual  
36 premium, based on the number of lost-time  
37 claims of the insured during the most recent  
38 3-year period for which statistics are  
39 available:

40 (a) No claims or a loss ratio of less  
41 than 1.0, an 8% credit;



1                   (b) One claim resulting in a loss ra-  
2                   tio greater than 1.0, no credit or deb-  
3                   it; and

4                   (c) Two or more claims resulting in a  
5                   loss ratio greater than 1.0, an 8% deb-  
6                   it.

7                   (2) The insurer shall notify the insured of  
8                   the premium adjustment and the reason for  
9                   the adjustment.

10           §2365. Deductibles

11           1. Mandatory deductible. A deductible shall ap-  
12           ply to all workers' compensation insurance policies  
13           issued to employers which meet the following qualifi-  
14           cations:

15           A. A net annual premium of \$15,000 or more in  
16           this State;

17           B. A premium not subject to retrospective rat-  
18           ing; and

19           C. A loss ratio equaling or exceeding 100% where  
20           the loss ratio is the ratio of case-incurred ben-  
21           efits to earned premium.

22           The deductible shall be \$1,000 a claim but shall ap-  
23           ply only to wage loss benefits. In no event shall the  
24           sum of all deductibles in one policy year exceed the  
25           lesser of 15% of net annual premium or \$25,000. Each  
26           loss to which a deductible applies shall be paid in  
27           full by the insurer. After the policy year has ex-  
28           pired the insurer shall be reimbursed by the amount  
29           of the deductibles by the employer. This reimburse-  
30           ment shall be considered as premium for purposes of  
31           cancellation or nonrenewal.

32           For purposes of calculations required under this sec-  
33           tion, losses shall be evaluated 60 days from the  
34           close of the policy year.

35           2. Optional deductible. Each insurer transacting  
36           or offering to transact workers' compensation insur-  
37           ance in this State shall offer optional deductibles

1 to employers not subject to subsection 1, which may  
2 be used upon election by the insured.

3 A. Deductibles shall be available for indemnity  
4 benefits in amounts of \$1,000 and \$5,000 a claim  
5 and such other reasonable amounts as may be ap-  
6 proved by the board.

7 B. The deductible form shall provide that the  
8 claim shall be paid by the applicable insurer,  
9 which shall then be reimbursed by the employer  
10 for any deductible amounts paid by the carrier.  
11 The employer shall be liable for reimbursement up  
12 to the limit of the deductible.

13 C. An insurer shall not be required to offer a  
14 deductible to an employer if, as a result of a  
15 credit investigation, the insurer determines that  
16 the employer is not sufficiently financially sta-  
17 ble to be responsible for the payment of deduct-  
18 ible amounts.

19 §2366. Workers' compensation insurance residual mar-  
20 ket mechanism

21 1. Participation. All insurers authorized to  
22 write workers' compensation and employers' liability  
23 insurance in this State shall participate in the  
24 workers' compensation insurance residual market mech-  
25 anism, which is composed of an Accident Prevention  
26 Account and a Safety Pool. The residual market mech-  
27 anism is not a state fund and the State shall have no  
28 proprietary interest in it or in any contributions  
29 made to it. This mechanism shall be exempt from any  
30 budgetary control or supervision by state agencies,  
31 except to the extent an insurance company is super-  
32 vised or controlled by state agencies.

33 2. Accident Prevention Account; eligibili-  
34 ty. Eligibility for insurance from the Accident Pre-  
35 vention Account shall be as follows.

36 A. The Accident Prevention Account shall be an  
37 insurance plan that provides for the equitable  
38 apportionment among insurers of insurance which  
39 may be afforded applicants who are entitled to,  
40 but unable to, procure that insurance through or-

1 dinary methods because of their demonstrated ac-  
2 cident frequency problem, measurably adverse loss  
3 ratio over a period of years or demonstrated at-  
4 titude of noncompliance with safety requirements.

5 B. An employer is eligible for insurance from  
6 the Accident Prevention Account if:

7 (1) The employer has a loss ratio greater  
8 than 1.00 over the last 3 years for which  
9 data is available; and

10 (2) The employer has attempted to obtain  
11 insurance in the voluntary market and has  
12 been refused by at least 2 insurers which  
13 write that insurance in this State. For the  
14 purpose of this section, an employer shall  
15 be considered to have been refused if of-  
16 fered insurance only under a retrospective  
17 rating plan or plans.

18 3. Safety Pool; eligibility. Eligibility under  
19 the Safety Pool shall be as follows.

20 A. The Safety Pool is an insurance plan that  
21 provides for an alternative source of insurance  
22 for employers with good safety records and is in-  
23 tended to operate within the framework of the  
24 voluntary insurance market.

25 B. An employer shall be eligible for the Safety  
26 Pool if that employer:

27 (1) Has had no more than one lost-time  
28 claim in the last 3 years for which data is  
29 available, regardless of the resulting loss  
30 ratio;

31 (2) Has a loss ratio which does not exceed  
32 1.0 over the last 3 years for which data is  
33 available; or

34 (3) Has been in business for less than 3  
35 years, provided that the eligibility shall  
36 terminate if his loss ratio exceeds 1.0 at  
37 the end of any year.

1           C. A member of the Safety Pool who fails to meet  
2           eligibility requirements under paragraph B shall  
3           be ordered to leave the Safety Pool after notice  
4           under Title 39, section 23, subsection 1.

5           4. Plan of operation. The board shall adopt  
6           rules pursuant to Title 5, chapter 375, subchapter  
7           II, establishing a plan of operation for the residual  
8           market mechanism. The plan of operation shall con-  
9           tain those terms which the board in its discretion  
10          deems necessary.

11          A. The plan shall include an experience rating  
12          system and merit rating plan providing that the  
13          premium of each employer in the account is modi-  
14          fied either prospectively or retrospectively. An  
15          experience modification shall only be applied to  
16          the manual rate of the plan. The sensitivity of  
17          a rating system may vary by size of the risk in-  
18          volved.

19          B. The plan shall provide for premium surcharges  
20          for employers in the Accident Prevention Account  
21          based on their specific loss experience within a  
22          specified period or other factors which are rea-  
23          sonably related to their risk of loss.

24                   (1) Premium surcharges apply to a premium  
25                   that is experience or merit rating modified.

26                   (2) Premium surcharges shall not exceed 10%  
27                   prior to January 1, 1989.

28                   (3) Premium surcharges shall be based on an  
29                   insured's adverse deviation from expected  
30                   incurred losses in this State. The  
31                   surcharge shall be based on the ratio of "A"  
32                   to "B" where:

33                           (a) "A" is the actual incurred losses  
34                           of a risk during the previous 3-year  
35                           experience period as reported; and

36                           (b) "B" is the expected incurred  
37                           losses of a risk during that period as  
38                           calculated under the uniform experience  
39                           or merit rating plan multiplied by the

1 risk's current experience or merit rat-  
2 ing modification factor.

3 (4) The premium surcharge shall be as fol-  
4 lows:

5	<u>Ratio of "A" to "B"</u>	<u>Surcharge</u>
6	<u>Less than 1.20</u>	<u>None</u>
7	<u>1.20 or greater, but</u>	
8	<u>less than 1.30</u>	<u>5%</u>
9	<u>1.30 or greater, but</u>	
10	<u>less than 1.40</u>	<u>10%</u>
11	<u>1.40 or greater, but</u>	
12	<u>less than 1.50</u>	<u>15%</u>
13	<u>1.50 or greater</u>	<u>20%</u>

14 C. Commissions under a plan shall be established  
15 at a level that is neither an incentive nor a  
16 disincentive to place an employer in the residual  
17 market.

18 5. Rates. Rate filings for rates in the Acci-  
19 dent Prevention Account and the Safety Pool shall be  
20 made together and shall be subject to section 2363.

21 A. A rate filing for the residual market shall  
22 include experience and merit rating plans. The  
23 experience rating plan shall be the uniform expe-  
24 rience rating plan. The merit plan shall provide  
25 the maximum credits possible to Safety Pool mem-  
26 bers on the basis of individual loss experience,  
27 including frequency and severity, consistent with  
28 this chapter and sound actuarial principles.

29 B. The Public Advocate, as appointed under Title  
30 35-A, section 1701, shall be a party to proceed-  
31 ings under section 2363 relating to rates for the  
32 residual market.

33 C. A party filing, who requests a proceeding un-  
34 der section 2363 relating to rates for residual  
35 market shall pay to the superintendent at the  
36 time of the filing a filing fee of \$25,000, which  
37 shall be immediately credited to the Public Advo-  
38 cate. The fee shall be segregated and expended  
39 for the purpose of employing outside consultants

1 to fulfill the requirements of paragraph B and  
2 any portion not so expended shall be returned to  
3 the filer.

4 D. The board shall review the rates, rating  
5 plans and rules, including rates for individual  
6 classifications and subclassifications, in the  
7 Accident Prevention Account and the Safety Pool  
8 at least once every 2 years and may review rates  
9 more frequently if necessary.

10 6. Contracts; consultants. The board may, in  
11 its discretion, enter into contracts for the provi-  
12 sion of any services necessary or appropriate to the  
13 operation of the residual market mechanism and may  
14 retain consultants to provide such other technical  
15 and professional services as it may require for the  
16 discharge of its duties.

17 7. Report. Beginning in 1989, the superintend-  
18 ent shall annually issue a report on or before April  
19 1st, to the Governor, the President of the Senate and  
20 the Speaker of the House of Representatives. The re-  
21 port shall include at least the following information  
22 relating to the Safety Pool:

23 A. The percentage of total insured premium in  
24 this State written in the Safety Pool;

25 B. The percentage of all insured employers in  
26 this State written in the Safety Pool;

27 C. The number of employers in the Safety Pool  
28 and the number who have entered or left;

29 D. The total earned premium, paid losses, re-  
30 serves and incurred losses; and

31 E. The investment income of the Safety Pool and  
32 its method of allocation or determination.

33' §2367. Benefit levels; recommended changes

34 The board shall, from time to time, investigate  
35 and review the effect of the State's workers' compen-  
36 sation benefit levels and benefit-related provisions  
37 on the cost of workers' compensation insurance. The

1 board may also review workers' compensation benefits  
2 and costs in the State as compared to other states.  
3 The board shall report any findings and recommenda-  
4 tions to the joint standing committee of the Legisla-  
5 ture having jurisdiction over labor.

6 §2368. Safety groups

7 A safety group shall be an insured plan that pro-  
8 vides for an alternative source of insurance for mem-  
9 bers of an organization or association. An insurer  
10 may issue a workers' compensation and employers' lia-  
11 bility policy or policies insuring a safety group if  
12 the following requirements are met.

13 1. Filings. The organization or association  
14 shall file with the superintendent:

15 A. A copy of its articles of incorporation and  
16 bylaws or its agreement of association and rules  
17 governing the conduct of its business, all certi-  
18 fied by the custodian of the originals;

19 B. An agreement that only members of the organi-  
20 zation or association shall be eligible for in-  
21 surance as a member of the group and that it will  
22 notify its insurers within 10 days if any member  
23 fails to remain a member in good standing in ac-  
24 cordance with the standards and rules of the or-  
25 ganization or association;

26 C. A description of the operation and makeup of  
27 a safety committee which, by means of education  
28 and otherwise, will seek to reduce the incidence  
29 and severity of accidents or claims; and

30 D. If a group policy, an agreement in writing  
31 duly executed guaranteeing that, if the insurer  
32 notifies the safety group of the nonpayment of a  
33 premium by an insured member within 60 days after  
34 the premium was due, the safety group will pay to  
35 the insurer the amount of any past due premium  
36 which does not exceed the amount of the dividends  
37 that are due the safety group or its members from  
38 the insurer. The safety group shall promptly noti-  
39 fy the insurer of the known insolvency of any  
40 member of the group and shall request, upon

1 learning of the insolvency, the removal of the  
2 member from the group. A copy of the resolution  
3 of the governing board of the group authorizing  
4 the execution of the guarantee agreement shall be  
5 filed with the superintendent and with the insurer  
6 issuing the group policy.

7 2. Advance premium discounts. Any advance pre-  
8 mium discount for any new or existing safety group  
9 shall be filed with the superintendent not later than  
10 5 days after the effective date.

11 3. Management. The safety group shall designate  
12 a person to act as the manager or authorized repre-  
13 sentative of the group. The manager or representa-  
14 tive may be remunerated by the members for expenses,  
15 including all ordinary operating expenses of the  
16 group, but in no instance shall the amount charged to  
17 members exceed 10% of earned premiums.

18 4. Dividends. Dividends or returned premiums  
19 paid or credited to a safety group shall be paid or  
20 credited to the individual members of the group, ex-  
21 cept that the indebtedness for any unpaid premium  
22 shall be first deducted from any dividend or premium  
23 returned.

24 5. Other requirements. Any safety group formed  
25 or operating under this section shall be subject to  
26 the requirements of sections 2931 to 2940, except  
27 that the safety group or the insurer may establish  
28 reasonable underwriting standards regarding eligibil-  
29 ity for acceptance and continued membership of the  
30 safety group. These underwriting standards shall be  
31 filed with the superintendent and may be disapproved  
32 by the superintendent if they unreasonably limit mem-  
33 bership in the safety group.

34 §2369. Examinations

35 1. Examination. The superintendent may examine  
36 an insurer, rating organization or advisory organiza-  
37 tion as he deems necessary to ascertain compliance  
38 with this subchapter.

39 2. Records. Every insurer, rating organization  
40 and advisory organization shall maintain reasonable



1 records of the type and kind reasonably adapted to  
2 its method of operation, containing its experience or  
3 the experience of its members, including the data,  
4 statistics or information collected or used by it in  
5 its activities.

6 A. These records shall be available at all rea-  
7 sonable times.

8 B. These records shall be maintained in an of-  
9 ice within this State or shall be made available  
10 to the superintendent at his office on reasonable  
11 notice.

12 3. Cost. The reasonable cost of an examination  
13 shall be paid by the examined party on presentation  
14 of a detailed account of these costs.

15 4. Report. In lieu of an examination, the su-  
16 perintendent may accept the report of an examination  
17 by the insurance supervisory official of another  
18 state, made pursuant to the laws of that state.

19 §2370. Medical fees; reimbursement levels

20 In order to improve the determinations of  
21 reasonability of charges for health care services  
22 rendered to injured workers, the board shall estab-  
23 lish by rule standards to govern reimbursement for  
24 health care services other than hospital services  
25 which are compensable under this Title. The rule  
26 shall allow for the reasonable, adequate but not ex-  
27 cessive reimbursement of health care providers for  
28 their services. In order to accomplish this purpose,  
29 the board shall consult with insurers, organizations  
30 representing providers of health care services and  
31 other appropriate groups. The standards may reflect  
32 differences in health care costs in various areas of  
33 the State and shall be adjusted annually to reflect  
34 any appropriate changes in levels of reimbursement.

35 §2371. Statistical recording and reporting

36 1. Collection and reporting system. The statis-  
37 tical advisory organization designated pursuant to  
38 section 2364, subsection 2 shall develop and file  
39 with the board a plan which will include a comprehen-

1 sive data collecting and reporting system. The pur-  
2 pose of the system is to permit the board, in a time-  
3 ly manner, to analyze and evaluate the entire work-  
4 ers' compensation system, including costs, adminis-  
5 tration, adequacy and timeliness of benefits.

6 2. Data collected. The data collection and re-  
7 porting system shall contain, at a minimum, the fol-  
8 lowing.

9 A. Basic information on each claim, including:

10 (1) Name, address and identification infor-  
11 mation of the employee, employer and insurer  
12 or self-insurer;

13 (2) File identification number or numbers,  
14 insurance policy number, occupation and  
15 classification codes;

16 (3) Date of hire, age of employee at injury  
17 and employee's prior workers' compensation  
18 claim history; and

19 (4) Attorney, if any, and date of involve-  
20 ment.

21 B. Claim history information on each claim, in-  
22 cluding:

23 (1) Date of injury or exposure to disease,  
24 date of first report, type of injury or ex-  
25 posure disclosure and affected body part;

26 (2) Preinjury wage history, date of initial  
27 payment and date of notice of controversy,  
28 if any, together with the reason for denial;

29 (3) Date of maximum medical improvement and  
30 independent medical examiner finding or  
31 findings;

32 (4) Identification of cumulative or re-  
33 opened claims; and

34 (5) Duration of wage loss period or peri-  
35 ods.

1 C. Information concerning Workers' Compensation  
2 Commission proceedings, including:

3 (1) As to each prehearing conference, the  
4 date; commissioner; attorney involvement, if  
5 any, employer or insurer offer; employee ex-  
6 pectation; and resolution, if any; and

7 (2) As to each hearing, the date, commis-  
8 sioner, attorney involvement, employer or  
9 insurer's offer, employee's demand and com-  
10 missioner's decision.

11 D. Cost of payment information on each claim,  
12 identified as open or closed, including:

13 (1) Payments to date to any physician, hos-  
14 pital, medical rehabilitation provider or  
15 other medical provider, together with a de-  
16 scription of the services, name of the  
17 provider and amount of payment;

18 (2) Payments made to date for weekly com-  
19 ensation, impairment benefits, death bene-  
20 fit, funeral expense, employee legal ex-  
21 pense, employer legal expense, lump sum,  
22 witness fees, penalties, vocational rehabil-  
23 itation services with a description of ser-  
24 vices and name of rehabilitation provider  
25 and any other type of payments under Title  
26 39;

27 (3) With respect to open claims, an esti-  
28 mate of outstanding liability, including an-  
29 ticipated payments, separately stated, for  
30 physician, hospital, other medical, weekly  
31 compensation, impairment benefits, vocation-  
32 al rehabilitation, employee legal expense,  
33 employer legal expense, witness fees and any  
34 other type of payment and

35 (4) Identification, both on payments and  
36 outstanding liabilities, of benefit offsets  
37 for Social Security, unemployment insurance,  
38 employer provided pension and any other  
39 source.

1           3. Medical and health care expenses; sys-  
2 tem. The statistical advisory organization shall  
3 create and maintain a system to monitor charges for  
4 medical fees, including hospital inpatient fees, hos-  
5 pital outpatient fees and services performed by phy-  
6 sicians, dentists, podiatrists, chiropractors, psy-  
7 chologists, psychiatrists and other medical practi-  
8 tioners whose fees are covered under Title 39.

9           4. Other data collection systems. The statisti-  
10 cally advisory organization may rely on data collected  
11 and reported by other data gathering organizations or  
12 agencies, such as the Workers' Compensation Commis-  
13 sion or the Department of Labor. If the statistical  
14 advisory organization is to incorporate data from  
15 other sources it shall satisfy itself that the data  
16 is sufficiently complete and accurate for the pur-  
17 poses for which it is to be used. The Workers' Com-  
18 penensation Commission and the Department of Labor  
19 shall assist the board in the development and mainte-  
20 nance of a comprehensive data base by recording and  
21 making available information within the custody and  
22 control of each, respectively, pursuant to the re-  
23 quest of the board.

24           5. Compliance penalties. The statistical advis-  
25 ory organization shall include as part of its plan a  
26 means of monitoring member or subscriber compliance  
27 with the reporting requirements and shall include a  
28 schedule of monetary penalties for failure to comply  
29 with reporting requirements.

30           6. Reports. Reports from members or subscribers  
31 shall be made monthly to the statistical advisory or-  
32 ganization and summary reports shall be made availa-  
33 ble to the board not later than 6 months from the re-  
34 porting date.

35           7. Rules. The board shall have the authority to  
36 promulgate reasonable rules with respect to the re-  
37 cording and reporting of claim information, including  
38 the recording and reporting of expense or experience  
39 items which are not specifically applicable to this  
40 State but require an allocation of experience or ex-  
41 penses to this State.

42           8. Confidentiality. Any report of information

1 relating to a particular claim shall be confidential  
2 and shall not be revealed by the board, except that  
3 the board may make compilations including this experi-  
4 ence. Any information provided to the board re-  
5 garding self-insurance shall be confidential to the  
6 extent protected by Title 39, section 23, subsection  
7 10.

8 9. Accuracy. The statistical advisory organiza-  
9 tion shall take all reasonable steps to insure the  
10 accuracy of the information provided to it and re-  
11 ported by it.

12 10. Claims covered. This section shall apply to  
13 all claims occurring on or after January 1, 1985.

14 §2372. Periodic profitability reports

15 1. Applicability. Each insurer with direct  
16 written premium of 1% or more of the total workers'  
17 compensation market shall submit a quarterly report,  
18 as described in this section, to the board.

19 2. Market share. For purposes of this section,  
20 market share shall be determined using the combined  
21 direct written premium of all authorized insurers un-  
22 der common management or control or all affiliated  
23 companies. For the quarters ending March 31st and  
24 June 30th, the market share shall be determined using  
25 direct written premium for the 2 immediately preced-  
26 ing years. For the quarters ending September 30th  
27 and December 31st, the market share shall be deter-  
28 mined using direct written premium for the immediate-  
29 ly preceding year.

30 3. Reports. Reports shall be submitted not lar-  
31 ter than 60 days following the close of a quarter.  
32 The quarterly report shall contain the following:

33 A. Written premium;

34 B. Earned premium;

35 C. Paid losses;

36 D. Paid loss adjustment expenses;

- 1           E. Incurred losses;  
2           F. Incurred loss adjustment expenses;  
3           G. Paid underwriting expenses;  
4           H. Incurred underwriting expenses;  
5           I. Investment income allocable to the State  
6           workers' compensation insurance for the quarter;  
7           J. Losses outstanding;  
8           K. Loss adjustment expenses outstanding; and  
9           L. Dividend allowed or returned to policyhold-  
10           ers.

11           4. Residual market report. On a quarterly basis  
12           not later than 90 days following the end of a quar-  
13           ter, the designated statistical advisory organization  
14           shall submit to the board a report containing the  
15           following information for the Safety Pool and the Ac-  
16           cident Prevention Account:

- 17           A. The number of policies issued;  
18           B. The number of policies renewed;  
19           C. The number of policies terminated;  
20           D. Written premium;  
21           E. Earned premium;  
22           F. Paid losses;  
23           G. Incurred losses; and  
24           H. Assessments to members and subscribers to  
25           cover pool operating gains or losses.

26           §2373. Penalty for violations

27           1. Civil penalties. A person or organization in  
28           violation of this chapter shall be assessed by the  
29           board a civil penalty not more than \$1,000 for each

1 violation, except that where a violation is willful,  
2 a civil penalty of not more than \$10,000 shall be as-  
3 essed for each violation. These penalties may be in  
4 addition to any other penalty provided by law.

5 2. Separate violation. For purposes of this  
6 section, an insurer using a rate for which that in-  
7 surer has failed to file the rate, supplementary rate  
8 information or supporting information as required by  
9 this subchapter, shall have committed a separate vi-  
10 olation for each day that failure continues.

11 3. License. The license of an advisory organi-  
12 zation, rating organization or insurer which fails to  
13 comply with an order of the superintendent may be  
14 suspended or revoked by the Administrative Court.

15 **Sec. 7. 24-A MRSA §2908, sub-§8, as enacted by**  
16 **PL 1985, c. 671, §1, is amended to read:**

17 8. This section does not apply to any insurance  
18 policy that has not been previously renewed if the  
19 policy has been in effect less than 60 days at the  
20 time notice of cancellation is mailed or otherwise  
21 delivered. This section does not apply to any policy  
22 subject to the Maine Automobile Insurance Cancellation  
23 Control Act, subchapter II. This section does  
24 not apply to ~~workers' compensation insurance or~~ any  
25 assigned risk program. The superintendent may sus-  
26 pend, in whole or in part, the applicability of this  
27 section to any insurer if, in his discretion, its ap-  
28 plication will endanger the ability of the insurer to  
29 fulfill its contractual obligations.

30 **Sec. 8. Transition provision.** The rates, fil-  
31 ings and uniform plans in effect on the effective  
32 date of this Act shall continue in effect unless and  
33 until modified or suspended by actions taken pursuant  
34 to this Act. The residual market mechanisms previ-  
35 ously established pursuant to the Maine Revised Stat-  
36 utes, Title 24-A, section 2350, shall continue in ef-  
37 fect under section 6 of this Act and need not be re-  
38 established. The terms and conditions of this opera-  
39 tion shall continue in effect until superseded by  
40 rules adopted under this Act.

41 **Emergency clause.** In view of the emergency cited

1 in the preamble, this Act shall take effect when ap-  
2 proved.

3 STATEMENT OF FACT

4 Section 1 establishes a 3-person Workers' Compensa-  
5 tion Rating Board ("board") with primary responsi-  
6 bility for rate setting. Section 2 places the board  
7 in the Department of Professional and Financial Regu-  
8 lation. Sections 3 and 4 implement technical changes  
9 necessitated by moving the rating law from the Maine  
10 Revised Statutes, Title 39 to Title 24-A and section  
11 5 repeals the competitive rating law.

12 Section 6 establishes the Workers' Compensation  
13 Rating Board with the Superintendent of Insurance as  
14 chairman and 2 other members appointed by the Gover-  
15 nor for staggered 4-year terms. The chairman has the  
16 power to retain consultants to accept reports of the  
17 bureau staff and, with the Workers' Compensation Rat-  
18 ing Board, has rate-making power. The board is funded  
19 by the carriers. The board is granted full power to  
20 administer and enforce the rating subchapter. The Su-  
21 perintendent of Insurance is responsible for the day-  
22 to-day administration when the board is not meeting.  
23 Adjudicatory proceedings shall be subject to the Ad-  
24 ministrative Procedure Act, Title 5, chapter 375. De-  
25 cisions shall be by majority vote. The board shall  
26 determine maximum rates with the power to reject any  
27 rate that is inadequate, excessive or discriminatory.

28 Title 24-A, section 2363 consolidates existing  
29 requirements, brings the section into conformance  
30 with the operations of the Workers' Compensation Rat-  
31 ing Board and strengthens reporting requirements for  
32 any carrier writing more than 1% of the compensation  
33 market in the State. The section mandates 45 days'  
34 notice of a rate filing and notification of the Pub-  
35 lic Advocate. It also specifies the requirements of  
36 the contents of a filing, including information for  
37 the 3 prior calendar years for actual Maine gross  
38 earned premium, unearned premium, loss and loss ex-  
39 pense reserves, surplus, investments, pretax income,  
40 rate of return, dividends, expenses, taxes, fees, en-  
41 gineering and loss control expenses, loss adjustment



1 expenses and more.

2 The board has 30 days to determine if a filing is  
3 complete and 90 days to make a rating determination.  
4 Filings may be made only every 180 days. Rates shall  
5 be adequate but not excessive or discriminatory and  
6 based on a just and reasonable profit. The reason-  
7 ableness of the profit shall be based on comprehen-  
8 sive consideration of carrier operations, reserves,  
9 investments, loss control, expenses and efficiency.  
10 Costs for a filing shall be the responsibility of the  
11 party filing.

12 The bill demands uniform classification subject  
13 to board approval and allows for a statistical advis-  
14 ory organization to gather and compile data. Retro-  
15 spective rating plans shall be voluntary with respect  
16 to insureds, but where experience rating is inappro-  
17 priate, merit rating is mandated according to a  
18 schedule outlined in the bill. A deductible is manda-  
19 tory for accounts in excess of \$15,000 premium sub-  
20 ject to conditions and a cap of \$25,000 or 15% premi-  
21 um, whichever is less. Insurers are also mandated to  
22 provide optional deductibles in the \$1,000 to \$5,000  
23 per claim range.

24 All licensed carriers are required to participate  
25 in the residual market and rules are established for  
26 the Accident Prevention Account and the Safety Pool.  
27 The board shall establish rules for the residual mar-  
28 ket which include experience rating and a premium  
29 surcharge. The Public Advocate remains a party to  
30 rate proceedings and will receive up to \$25,000 per  
31 filing for expenses. The Workers' Compensation Rating  
32 Board also is required to report annually to the  
33 Governor and the Legislature and may from time to  
34 time investigate benefit levels. Safety groups are  
35 empowered and regulated. Carriers and rating organi-  
36 zations must keep adequate records and are subject to  
37 examination. The board shall determine adequate but  
38 not excessive medical reimbursements.

39 The bill mandates an extensive and comprehansive  
40 data reporting system. It requires quarterly finan-  
41 cial reports, regular claims and medical reports and  
42 cooperation among state and statistical organizations  
43 subject to financial penalties for failure to comply.

1 Confidentiality is maintained. Carriers who write 1%  
2 or more of the compensation business in the State  
3 must report within 60 days of the close of each quar-  
4 ter and the statistical organization must report with-  
5 in 90 days. Section 7 makes compensation policies  
6 subject to the State's cancellation control law.

7 Section 8 accomplishes a technical change.

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